

PATENT
Attorney Docket No. 09420.0001-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Haim Emil DAHAN et al.) Group Art Unit: 3767
Application No.: 10/774,939) Examiner: Laura C. SCHELL
Filed: February 9, 2004)
For: APPARATUS AND METHOD FOR) Confirmation No.: 8623
MEASURING FLUID FLOW TO A)
SUCKLING BABY)

MAIL STOP AMENDMENT

VIA EFS-Web

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), Applicant brings to the attention of the Examiner the listed documents on the attached IDS Form PTO/SB/08. This Supplemental Information Disclosure Statement is being filed after the events recited in Section 1.97(b) but, to the undersigned's knowledge, before the mailing date of either a Final action, Quayle action, or a Notice of Allowance. Under the provisions of 37 C.F.R. § 1.97(c), this Supplemental Information Disclosure Statement is accompanied by a fee of \$180.00 as specified by Section 1.17(p).

Pursuant to 37 C.F.R. § 1.98(a), a copy of the U.S. patent is not enclosed. A copy of the Office Action issued in co-pending U.S. Patent Application No. 11/300,515 is also not enclosed as it is available on the Image File Wrapper System of the United States Patent and Trademark Office's Patent Application Information Retrieval (PAIR) system.

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system. Applicant respectfully requests that the Office consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d (BNA) 1801 (Fed. Cir. 2003), that an "adverse decision" by another examiner may meet the materiality standard under the amended Rule 56, and thus, Applicants should disclose prior rejections of "substantially similar claim[s]" to the Office. See also M.P.E.P. § 2001.06(b). Accordingly, although Applicant is not representing that Office Action in a co-pending application is material to the present application and is not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicant has listed the substantive Office Actions in the co-pending application on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that the listed documents are material or constitutes "prior art." If the Office applies the documents as prior art against any claim in the application and Applicant determines that the cited documents do not constitute "prior art" under United States law, Applicant reserves the right to present to the Office the relevant facts and law regarding the appropriate status of such document. Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed document, should the document be applied against the claims of the present application.

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If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 2, 2009

By: Alexis Simpson
Alexis N. Simpson
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